

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Environment and Energy to which was referred Senate
3 Bill No. 5 entitled “An act relating to affordably meeting the mandated
4 greenhouse gas reductions for the thermal sector through efficiency,
5 weatherization measures, electrification, and decarbonization” respectfully
6 reports that it has considered the same and recommends that the House propose
7 to the Senate that the bill be amended by striking out all after the enacting
8 clause and inserting in lieu thereof the following:

9 Sec. 1. SHORT TITLE

10 This act shall be known and may be cited as the “Affordable Heat Act.”

11 Sec. 2. FINDINGS

12 The General Assembly finds:

13 (1) All of the legislative findings made in 2020 Acts and Resolves
14 No. 153, Sec. 2, the Vermont Global Warming Solutions Act of 2020
15 (GWSA), remain true and are incorporated by reference here.

16 (2) Under the GWSA and 10 V.S.A. § 578, Vermont has a legal
17 obligation to reduce greenhouse gas emissions to specific levels by 2025, 2030,
18 and 2050.

19 (3) The Vermont Climate Council was established under the GWSA and
20 was tasked with, among other things, recommending necessary legislation to
21 reduce greenhouse gas emissions. The Initial Vermont Climate Action Plan

1 calls for the General Assembly to adopt legislation authorizing the Public
2 Utility Commission to administer the Clean Heat Standard consistent with the
3 recommendations of the Energy Action Network’s Clean Heat Standard
4 Working Group.

5 (4) As required by the GWSA, the Vermont Climate Council published
6 the Initial Vermont Climate Action Plan on December 1, 2021. As noted in
7 that plan, over one-third of Vermont’s greenhouse gas emissions in 2018 came
8 from the thermal sector. In that year, approximately 72 percent of Vermont’s
9 thermal energy use was fossil based, including 29 percent from the burning of
10 heating oil, 24 percent from fossil gas, and 19 percent from propane.

11 (5) To meet the greenhouse gas emission reductions required by the
12 GWSA, Vermont needs to transition away from its current carbon-intensive
13 building heating practices to lower-carbon alternatives. It also needs to do this
14 equitably, recognizing economic effects on energy users, especially energy-
15 burdened users; on the workforce currently providing these services; and on
16 the overall economy.

17 (6) Vermonters have an unprecedented opportunity to invest in eligible
18 clean heat measures with funding from new federal laws including, the
19 Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act
20 of 2022.

21 Sec. 3. 30 V.S.A. chapter 94 is added to read:

1 CHAPTER 94. CLEAN HEAT STANDARD

2 § 8121. INTENT

3 Pursuant to 2 V.S.A. § 205(a), it is the intent of the General Assembly that
4 the Clean Heat Standard be designed and implemented in a manner that
5 achieves Vermont’s thermal sector greenhouse gas emissions reductions
6 necessary to meet the requirements of 10 V.S.A. § 578(a)(2) and (3),
7 minimizes costs to customers, and recognizes that affordable heating is
8 essential for Vermonters. It shall enhance social equity by prioritizing
9 customers with low income and moderate income and those households with
10 the highest energy burdens. The Clean Heat Standard shall, to the greatest
11 extent possible, maximize the use of available federal funds to deliver clean
12 heat measures.

13 § 8122. CLEAN HEAT STANDARD

14 (a) The Clean Heat Standard is established. Under this program, obligated
15 parties shall reduce greenhouse gas emissions attributable to the Vermont
16 thermal sector by retiring required amounts of clean heat credits to meet the
17 thermal sector portion of the greenhouse gas emission reduction obligations of
18 the Global Warming Solutions Act.

19 (b) By rule or order, the Commission shall establish or adopt a system of
20 tradeable clean heat credits earned from the delivery of clean heat measures
21 that reduce greenhouse gas emissions.

1 (c) An obligated party shall obtain the required amount of clean heat credits
2 through delivery of eligible clean heat measures by a designated statewide
3 delivery agent, unless the obligated party receives prior approval from the
4 Commission to obtain the required amount of clean heat credits through the
5 delivery of eligible clean heat measures, through contracts for delivery of
6 eligible clean heat measures, through the market purchase of clean heat credits,
7 or through delivery of eligible clean heat measures by a designated statewide
8 default delivery agent. An obligated party shall inform the Commission of
9 how it plans to meet its obligation through the process described in section
10 8125 of this title.

11 (d) The Commission shall adopt rules and may issue orders to implement
12 and enforce the Clean Heat Standard program.

13 § 8123. DEFINITIONS

14 As used in this chapter:

15 (1) “Carbon intensity value” means the amount of lifecycle greenhouse
16 gas emissions per unit of energy of fuel expressed in grams of carbon dioxide
17 equivalent per megajoule (gCO₂e/MJ).

18 (2) “Clean heat credit” means a tradeable, nontangible commodity that
19 represents the amount of greenhouse gas reduction attributable to a clean heat
20 measure. The Commission shall establish a system of management for clean
21 heat credits pursuant to this chapter.

1 (3) “Clean heat measure” means fuel delivered and technologies
2 installed to end-use customers in Vermont that reduce greenhouse gas
3 emissions from the thermal sector. Clean heat measures shall not include
4 switching from one fossil fuel use to another fossil fuel use. The Commission
5 may adopt a list of acceptable actions that qualify as clean heat measures.

6 (4) “Commission” means the Public Utility Commission.

7 (5) “Customer with low income” means a customer with a household
8 income of up to 60 percent of area median income as published annually by the
9 U.S. Department of Housing and Urban Development or a customer who
10 qualifies for a government-sponsored, low-income energy subsidy.

11 (6) “Customer with moderate income” means a customer with a
12 household income between 60 percent and 120 percent of area median income
13 as published annually by the U.S. Department of Housing and Urban
14 Development.

15 (7) “Default delivery agent” means an entity designated by the
16 Commission to provide services that generate clean heat measures.

17 (8) “Energy burden” means the annual spending on thermal energy as a
18 percentage of household income.

19 (9) “Entity” means any individual, trustee, agency, partnership,
20 association, corporation, company, municipality, political subdivision, or any
21 other form of organization.

1 (10) “Fuel pathway” means a detailed description of all stages of fuel
2 production and use for any particular fuel, including feedstock generation or
3 extraction, production, transportation, distribution, and combustion of the fuel
4 by the consumer. The fuel pathway is used in the calculation of the carbon
5 intensity value and lifecycle greenhouse gas emissions of each fuel.

6 (11) “Heating fuel” means fossil-based heating fuel, including oil,
7 propane, natural gas, coal, and kerosene.

8 (12) “Obligated party” means:

9 (A) A regulated natural gas utility serving customers in Vermont.

10 (B) For other heating fuels, the entity that imports heating fuel for
11 ultimate consumption within the State, or the entity that produces, refines,
12 manufactures, or compounds heating fuel within the State for ultimate
13 consumption within the State. For the purpose of this section, the entity that
14 imports heating fuel is the entity that has ownership title to the heating fuel at
15 the time it is brought into Vermont.

16 (13) “Thermal sector” has the same meaning as the “Residential,
17 Commercial and Industrial Fuel Use” sector as used in the Vermont
18 Greenhouse Gas Emissions Inventory and Forecast.

19 § 8124. CLEAN HEAT STANDARD COMPLIANCE

20 (a) Required amounts.

1 (1) The Commission shall establish the number of clean heat credits that
2 each obligated party is required to retire each calendar year. The size of the
3 annual requirement shall be set at a pace sufficient for Vermont’s thermal
4 sector to achieve lifecycle carbon dioxide equivalent (CO₂e) emission
5 reductions consistent with the requirements of 10 V.S.A. § 578(a)(2) and (3)
6 expressed as lifecycle greenhouse gas emissions pursuant to subsection
7 8127(g) of this title.

8 (2) Annual requirements shall be expressed as a percent of each
9 obligated party’s contribution to the thermal sector’s lifecycle CO₂e emissions
10 in the previous year. The annual percentage reduction shall be the same for all
11 obligated parties. To ensure understanding among obligated parties, the
12 Commission shall publicly provide a description of the annual requirements in
13 plain terms ~~with translation services available.~~

14 (3) To support the ability of the obligated parties to plan for the future,
15 the Commission shall establish and update annual clean heat credit
16 requirements for the next 10 years. Every three years, the Commission shall
17 extend the requirements three years; shall assess emission reductions actually
18 achieved in the thermal sector; and, if necessary, revise the pace of clean heat
19 credit requirements for future years to ensure that the thermal sector portion of
20 the emission reduction requirements of 10 V.S.A. § 578(a)(2) and (3) for 2030
21 and 2050 will be achieved.

1 (4) The Commission may temporarily, for a period not to exceed 36
2 months, adjust the annual requirements for good cause after notice and
3 opportunity for public process. Good cause may include a shortage of clean
4 heat credits, market conditions as identified by the Department’s potential
5 study conducted pursuant to section 8125 of this title, or undue adverse
6 financial impacts on particular customers or demographic segments. The
7 Commission shall ensure that any downward adjustment does not materially
8 affect the State’s ability to comply with the requirements of 10 V.S.A.
9 § 578(a)(2) and (3).

10 (b) Annual registration.

11 (1) Each entity that sells heating fuel into or in Vermont shall register
12 annually with the Commission by an annual deadline established by the
13 Commission. The first registration deadline is January 31, 2024, and the
14 annual deadline shall remain January 31 of each year unless a different
15 deadline is established by the Commission. The form and information required
16 in the registration shall be determined by the Commission and shall include all
17 data necessary to establish annual requirements under this chapter. The
18 Commission shall use the information provided in the registration to determine
19 whether the entity shall be considered an obligated party and the amount of its
20 annual requirement.

1 (2) At a minimum, the Commission shall require registration
2 information to include legal name; doing business as name, if applicable;
3 municipality; state; types of heating fuel sold; and the volume of sales of
4 heating fuels into or in the State for final sale or consumption in the State in
5 the calendar year immediately preceding the calendar year in which the entity
6 is registering with the Commission.

7 (3)(A) Beginning in 2024, each year on or before July 15, the
8 Department of Taxes shall annually provide to the Commission a copy of the
9 forms that were submitted between July 1 of the previous year and June 30 of
10 the current year by the entities that pay the existing fuel tax established in 33
11 V.S.A. § 2503(a)(1) and (2). If any form contains a Social Security number,
12 the Department of Taxes shall redact that information before submitting a copy
13 of the form to the Commission. Notwithstanding any other provision of law,
14 including 33 V.S.A. § 2503(c) and any confidentiality provisions that would
15 normally apply to tax forms, the fuel tax forms submitted pursuant to 33
16 V.S.A. § 2503(a)(1) and (2) shall be public documents, and the Commission
17 shall make those documents publicly available.

18 (B) On or before July 1, 2023, the Department of Taxes shall ensure
19 that the fuel tax form required under 33 V.S.A. § 2503(a)(1) and (2) includes a
20 prominent notice explaining that, pursuant to this section, the form will be
21 provided to the Public Utility Commission and will be made publicly available.

1 (C) The Department of Taxes shall further ensure that the fuel tax
2 form requires that each submitting entity list the exact amount of gallons of
3 each fuel type, separated by type, that was sold in Vermont, as well as a list of
4 the exact amount of gallons of each fuel type, separated by type, that was
5 purchased by the submitting entity and the name and location of the entity
6 from which it was purchased.

7 (4) Each year, and not later than 30 days following the annual
8 registration deadline established by the Commission, the Commission shall
9 share complete registration information of obligated parties with the Agency of
10 Natural Resources and the Department of Public Service for purposes of
11 updating the Vermont Greenhouse Gas Emissions Inventory and Forecast and
12 meeting the requirements of 10 V.S.A. § 591(b)(3).

13 (5) The Commission shall maintain, and update annually, a list of
14 registered entities on its website that contains the required registration
15 information.

16 (6) For any entity not registered on or before January 31, 2024, the first
17 registration form shall be due 30 days after the first sale of heating fuel to a
18 location in Vermont.

19 (7) Clean heat requirements shall transfer to entities that acquire an
20 obligated party.

1 (8) Entities that cease to operate shall retain their clean heat requirement
2 for their final year of operation.

3 (c) Early action credits. Beginning on January 1, 2023, clean heat
4 measures that are installed and provide emission reductions are creditable.
5 Upon the establishment of the clean heat credit system, entities may register
6 credits for actions taken starting in 2023.

7 (d) Equitable distribution of clean heat measures.

8 (1) The Clean Heat Standard shall be designed and implemented to
9 enhance social equity by prioritizing customers with low income, moderate
10 income, those households with the highest energy burdens, and renter
11 households with tenant-paid energy bills. The design shall ensure all
12 customers have an equitable opportunity to participate in, and benefit from,
13 clean heat measures regardless of heating fuel used, income level, geographic
14 location, residential building type, or homeownership status.

15 (2) Of their annual requirement, each obligated party shall retire at least
16 16 percent from customers with low income and 16 percent from customers
17 with moderate income. For each of these groups, at least one-half of these
18 credits shall be from installed clean heat measures that require capital
19 investments in homes, have measure lives of 10 years or more, and are
20 estimated by the Technical Advisory Group to lower annual energy bills.
21 Examples shall include weatherization improvements and installation of heat

1 pumps, heat pump water heaters, and advanced wood heating systems. The
2 Commission may identify additional measures that qualify as installed
3 measures.

4 (3) The Commission shall consider frontloading the credit requirements
5 for customers with low income and moderate income so that the greatest
6 proportion of clean heat measures reach Vermonters with low income and
7 moderate income in the earlier years.

8 (4) With consideration to how to best serve customers with low income
9 and moderate income, the Commission shall have authority to change the
10 percentages established in subdivision (2) of this subsection for good cause
11 after consultation with the Equity Advisory Group, notice, and opportunity for
12 public process. Good cause may include a shortage of clean heat credits or
13 undue adverse financial impacts on particular customers or demographic
14 segments.

15 (5) In determining whether to exceed the minimum percentages of clean
16 heat measures that must be delivered to customers with low income and
17 moderate income, the Commission shall take into account participation in other
18 government-sponsored low-income and moderate-income weatherization
19 programs.

1 (6) A clean heat measure delivered to a customer qualifying for a
2 government-sponsored, low-income energy subsidy shall qualify for clean heat
3 credits required by subdivision (2) of this subsection.

4 (7) Customer income data collected shall be kept confidential by the
5 Commission, the Department of Public Service, the obligated parties and any
6 entity that delivers clean heat measures.

7 (e) Credit banking. The Commission shall allow an obligated party that
8 has met its annual requirement in a given year to retain clean heat credits in
9 excess of that amount for future sale or application to the obligated party's
10 annual requirements in future compliance periods, as determined by the
11 Commission.

12 (f) Enforcement.

13 (1) The Commission shall have the authority to enforce the requirements
14 of this chapter and any rules or orders adopted to implement the provisions of
15 this chapter. The Commission may use its existing authority under this title.
16 As part of an enforcement order, the Commission may order penalties and
17 injunctive relief.

18 (2) The Commission shall order an obligated party that fails to retire the
19 number of clean heat credits required in a given year, including the required
20 amounts from customers with low income and moderate income, to make a
21 noncompliance payment to the default delivery agent. The per-credit amount

1 of the noncompliance payment shall be four times the amount established by
2 the Commission for timely per-credit payments to the default delivery agent.

3 (3) False or misleading statements or other representations made to the
4 Commission by obligated parties related to compliance with the Clean Heat
5 Standard are subject to the Commission’s enforcement authority, including the
6 power to investigate and assess penalties, under this title.

7 (4) The Commission’s enforcement authority does not in any way
8 impede the enforcement authority of other entities, such as the Attorney
9 General’s office.

10 (5) Failure to register with the Commission as required by this section is
11 a violation of the Consumer Protection Act in 9 V.S.A. chapter 63.

12 (g) Records. The Commission shall establish requirements for the types of
13 records to be submitted by obligated parties, a record retention schedule for
14 required records, and a process for verification of records and data submitted in
15 compliance with the requirements of this chapter.

16 (h) Reports.

17 (1) As used in this subsection, “standing committees” means the House
18 Committee on Environment and Energy and the Senate Committees on
19 Finance and on Natural Resources and Energy.

20 (2) After the adoption of the rules implementing this chapter, the
21 Commission shall submit a written report to the standing committees detailing

1 the efforts undertaken to establish the Clean Heat Standard pursuant to this
2 chapter.

3 (3) On or before January 15 of each year following the year in which the
4 rules are first adopted under this chapter, the Commission shall submit to the
5 standing committees a written report detailing the implementation and
6 operation of the Clean Heat Standard. This report shall include an assessment
7 on the equitable adoption of clean heat measures required by subsection (d) of
8 this section, along with recommendations to increase participation for the
9 households with the highest energy burdens. The provisions of 2 V.S.A.
10 § 20(d) (expiration of required reports) shall not apply to the report to be made
11 under this subsection.

12 § 8125. DEFAULT DELIVERY AGENT

13 (a) Default delivery agent designated. In place of obligated-party specific
14 programs, the Commission shall provide for the development and
15 implementation of statewide clean heat programs and measures by one or more
16 default delivery agents appointed by the Commission for these purposes. The
17 Commission may specify that appointment of a default delivery agent to
18 deliver clean heat services, on behalf of obligated entities who pay the per-
19 credit fee to the default delivery agent, satisfies those entities' corresponding
20 obligations under this chapter.

1 (b) Appointment. The default delivery agent shall be one or more
2 statewide entities capable of providing a variety of clean heat measures. The
3 Commission shall designate the first default delivery agent on or before June 1,
4 2024. The designation of an entity under this subsection may be by order of
5 appointment or contract. A designation, whether by order of appointment or
6 by contract, may only be issued after notice and opportunity for hearing. An
7 existing order of appointment issued by the Commission under section 209 of
8 this title may be amended to include the responsibilities of the default delivery
9 agent. An order of appointment shall be for a limited duration not to exceed 12
10 years, although an entity may be reappointed by order or contract. An order of
11 appointment may include any conditions and requirements that the
12 Commission deems appropriate to promote the public good. For good cause,
13 after notice and opportunity for hearing, the Commission may amend or revoke
14 an order of appointment.

15 (c) Supervision. Any entity appointed by order of appointment under this
16 section that is not an electric or gas utility already regulated under this title
17 shall not be considered to be a company as defined under section 201 of this
18 title but shall be subject to the provisions of sections 18–21, 30–32, 205–208;
19 subsection 209(a); sections 219 and 221; and subsection 231(b) of this title, to
20 the same extent as a company as defined under section 201 of this title. The
21 Commission and the Department of Public Service shall have jurisdiction

1 under those sections over the entity, its directors, receivers, trustees, lessees, or
2 other persons or companies owning or operating the entity and of all plants,
3 equipment, and property of that entity used in or about the business carried on
4 by it in this State as covered and included in this section. This jurisdiction
5 shall be exercised by the Commission and the Department so far as may be
6 necessary to enable them to perform the duties and exercise the powers
7 conferred upon them by law. The Commission and the Department each may,
8 when they deem the public good requires, examine the plants, equipment, and
9 property of any entity appointed by order of appointment to serve as a default
10 delivery agent.

11 (d) Use of default delivery agent.

12 (1) An obligated party shall meet its annual requirement through a
13 designated default delivery agent appointed by the Commission. However, the
14 obligated party may be approved by the Commission to meet its requirement,
15 in whole or in part, through one or more for the following ways: by delivering
16 eligible clean heat measures, contracting for delivery of eligible clean heat
17 measures, or through the market purchase of clean heat credits.

18 (2) The Commission shall provide a form for an obligated party to
19 indicate how it intends to meet its requirement. The form shall require
20 sufficient information to determine the nature of the credits that the default
21 delivery agent will be responsible to deliver on behalf of the obligated party. If

1 the Commission approves of a plan for an obligated party to meet its obligation
2 through a mechanism other than payment to a designated default delivery
3 agent, then the Commission shall make such approvals known to the default
4 delivery agent as soon as practicable.

5 (3) The Commission shall by rule or order establish a standard timeline
6 under which the default delivery agent credit cost or costs are established and
7 by which an obligated party must file its election form. The Commission shall
8 provide not less than 120 days' notice of default delivery agent credit cost or
9 costs prior to the deadline for an obligated party to file its election form so an
10 obligated party can assess options and inform the Commission of its intent to
11 procure credits in whole or in part as fulfillment of its requirement.

12 (4) The default delivery agent shall deliver creditable clean heat
13 measures either directly or indirectly to end-use customer locations in Vermont
14 sufficient to meet the total aggregated annual requirement assigned to it
15 pursuant to this subsection, along with any additional amount achievable
16 through noncompliance payments as described in subdivision 8124(f)(2) of this
17 title.

18 (e) Budget.

19 (1) The Commission shall open a proceeding on or before July 1, 2023
20 and at least every three years thereafter to establish the default delivery agent

1 credit cost or costs and the quantity of credits to be generated for the
2 subsequent three-year period. That proceeding shall include:

3 (A) an initial potential study conducted by the Department of Public
4 Service to include a quantification of available thermal resources, thermal
5 market conditions, and statewide and regional thermal workforce
6 characteristics;

7 (B) the development of a three-year plan and associated proposed
8 budget by the default delivery agent; and

9 (C) opportunity for public participation.

10 (2) Once the Commission provides the default delivery agent with the
11 obligated parties' election information, the default delivery agent shall be
12 granted the opportunity to amend its plan and budget before the Commission.

13 (f) Compliance funds. All funds received from noncompliance payments
14 pursuant to subdivision 8124(f)(2) of this title shall be used by the default
15 delivery agent to provide clean heat measures to customers with low income.

16 (g) Specific programs. The default delivery agent shall create specific
17 programs for multiunit dwellings, condo associations, renters, and for
18 manufactured homes so these groups have an equal opportunity to benefit from
19 the Clean Heat Standard.

20 § 8126. RULEMAKING

1 (a) The Commission shall adopt rules and may issue orders to implement
2 and enforce the Clean Heat Standard program.

3 (b) The requirements to adopt rules and any requirements regarding the
4 need for legislative approval before any part of the Clean Heat Standard goes
5 into effect do not in any way impair the Commission’s authority to issue orders
6 or take any other actions, both before and after final rules take effect, to
7 implement and enforce the Clean Heat Standard.

8 (c) The Commission’s rules may include a provision that allows the
9 Commission to revise its Clean Heat Standard rules by order of the
10 Commission without the revisions being subject to the rulemaking
11 requirements of the 3 V.S.A. chapter 25, provided the Commission:

12 (1) provides notice of any proposed changes;

13 (2) allows for a 30-day comment period;

14 (3) responds to all comments received on the proposed change;

15 (4) provides a notice of language assistance services on all public
16 outreach materials; and

17 (5) arranges for language assistance to be provided to members of the
18 public as requested using professional language services companies.

19 (d) Any order issued under this chapter shall be subject to appeal to the
20 Vermont Supreme Court under section 12 of this title, and the Commission
21 must immediately file any orders, a redline, and clean version of the revised

1 rules with the Secretary of State, with notice simultaneously provided to the
2 House Committee on Environment and Energy and the Senate Committees on
3 Finance and on Natural Resources and Energy.

4 § 8127. TRADEABLE CLEAN HEAT CREDITS

5 (a) Credits established. By rule or order, the Commission shall establish or
6 adopt a system of tradeable clean heat credits that are earned by reducing
7 greenhouse gas emissions through the delivery of clean heat measures. While
8 credit denominations may be in simple terms for public understanding and ease
9 of use, the underlying value shall be based on units of carbon dioxide
10 equivalent (CO₂e). The system shall provide a process for the recognition,
11 approval, and monitoring of the clean heat credits. The Department of Public
12 Service shall perform the verification of clean heat credit claims and submit
13 results of the verification and evaluation to the Commission annually.

14 (b) Credit ownership. The Commission, in consultation with the Technical
15 Advisory Group, shall establish a standard methodology for determining what
16 party or parties shall be the ~~initial~~ owner of a clean heat credit upon its
17 creation, including a representative value for the provision of all components
18 of current and future programs, to include financial incentives, workforce
19 development, market uplift, and training. The ~~original~~ owner or owners may
20 transfer those credits to a third party or to an obligated party.

1 (c) Credit values. Clean heat credits shall be based on the accurate and
2 verifiable lifecycle CO2e emission reductions in Vermont’s thermal sector that
3 result from the delivery of eligible clean heat measures to existing or new end-
4 use customer locations into or in Vermont.

5 (1) For clean heat measures that are installed, credits will be created for
6 each year of the expected life of the installed measure. The annual value of the
7 clean heat credits for installed measures in each year shall be equal to the
8 lifecycle CO2e emissions of the fuel use that is avoided in a given year
9 because of the installation of the measure, minus the lifecycle emissions of the
10 fuel that is used instead in that year.

11 (2) For clean heat measures that are fuels, clean heat credits will be
12 created only for the year the fuel is delivered to the end-use customer. The
13 value of the clean heat credits for fuels shall be the lifecycle CO2e emissions
14 of the fuel use that is avoided, minus the lifecycle CO2e emissions of the fuel
15 that is used instead.

16 (d) List of eligible measures. Eligible clean heat measures delivered to or
17 installed in Vermont may include:

18 (1) thermal energy efficiency improvements and weatherization;

19 (2) cold-climate air, ground source, and other heat pumps, including
20 district, network, grid, microgrid, and building geothermal systems;

21 (3) heat pump water heaters;

- 1 (4) utility-controlled electric water heaters;
- 2 (5) solar hot water systems;
- 3 (6) electric appliances providing thermal end uses;
- 4 (7) advanced wood heating;
- 5 (8) noncombustion or renewable energy-based district heating services;
- 6 (9) the supply of sustainably sourced biofuels;
- 7 (10) the supply of green hydrogen; and
- 8 (11) the replacement of a manufactured home with a high efficiency
9 manufactured home.

10 (e) Renewable natural gas. For pipeline renewable natural gas and other
11 renewably generated natural gas substitutes to be eligible, an obligated party
12 shall purchase renewable natural gas and its associated renewable attributes
13 and demonstrate that it has secured a contractual pathway for the physical
14 delivery of the gas from the point of injection into the pipeline to the obligated
15 party's delivery system.

16 (f) Carbon intensity of fuels.

17 (1) To be eligible as a clean heat measure a liquid or gaseous clean heat
18 measure shall have a carbon intensity value as follows:

19 (A) below 80 in 2025;

20 (B) below 60 in 2030; and

1 (C) below 20 in 2050, provided the Commission may allow liquid
2 and gaseous clean heat measures with a carbon intensity value greater than 20
3 if excluding them would be impracticable based on the characteristics of
4 Vermont’s buildings, the workforce available in Vermont to deliver lower
5 carbon intensity clean heat measures, cost, or the effective administration of
6 the Clean Heat Standard.

7 (2) The Commission shall establish and publish the rate at which carbon
8 intensity values shall decrease annually for liquid and gaseous clean heat
9 measures consistent with subdivision (1) of this subsection as follows:

10 (A) on or before January 1, 2025 for 2025 to 2030; and

11 (B) on or before January 1, 2030 for 2031 to 2050.

12 (3) For the purpose of this section, the carbon intensity values shall be
13 understood relative to No. 2 fuel oil delivered into or in Vermont in 2023
14 having a carbon intensity value of 100. Carbon intensity values shall be
15 measured based on fuel pathways.

16 (g) Emissions schedule.

17 (1) To promote certainty for obligated parties and clean heat providers,
18 the Commission shall, by rule or order, establish a schedule of lifecycle
19 emission rates for heating fuels and any fuel that is used in a clean heat
20 measure, including electricity, or is itself a clean heat measure, including
21 biofuels. The schedule shall be based on transparent, verifiable, and accurate

1 emissions accounting adapting the Argonne National Laboratory GREET
2 Model, Intergovernmental Panel on Climate Change (IPCC) modeling, or an
3 alternative of comparable analytical rigor to fit the Vermont thermal sector
4 context, and the requirements of 10 V.S.A. § 578(a)(2) and (3).

5 (2) For each fuel pathway, the schedule shall account for greenhouse gas
6 emissions from biogenic and geologic sources, including fugitive emissions
7 and loss of stored carbon. In determining the baseline emission rates for clean
8 heat measures that are fuels, emissions baselines shall fully account for
9 methane emissions reductions or captures already occurring, or expected to
10 occur, for each fuel pathway as a result of local, State, or federal policies that
11 have been enacted or adopted.

12 (3) The schedule may be amended based upon changes in technology or
13 evidence on emissions, but clean heat credits previously awarded or already
14 under contract to be produced shall not be adjusted retroactively.

15 (h) Review of consequences. The Commission shall biennially assess
16 harmful consequences that may arise in Vermont or elsewhere from the
17 implementation of clean heat measures and shall set standards or limits to
18 prevent those consequences. Such consequences shall include deforestation,
19 conversion of grasslands, damage to watersheds, or the creation of new
20 methane to meet fuel demand.

1 (i) Time stamp. Clean heat credits shall be “time stamped” for the year in
2 which the clean heat measure delivered emission reductions. For each
3 subsequent year during which the measure produces emission reductions,
4 credits shall be generated for that year. Only clean heat credits that have not
5 been retired shall be eligible to satisfy the current year obligation.

6 (j) Delivery in Vermont. Clean heat credits shall be earned only in
7 proportion to the deemed or measured thermal sector greenhouse gas emission
8 reductions achieved by a clean heat measure delivered in Vermont. Other
9 emissions offsets, wherever located, shall not be eligible measures.

10 (k) Credit eligibility.

11 (1) All eligible clean heat measures that are delivered in Vermont
12 beginning on January 1, 2023 shall be eligible for clean heat credits and may
13 be retired and count towards an obligated party’s emission reduction
14 obligations, regardless of who creates or delivers them and regardless of
15 whether their creation or delivery was required or funded in whole or in part by
16 other federal or State policies and programs. This includes individual
17 initiatives, emission reductions resulting from the State’s energy efficiency
18 programs, the low-income weatherization program, and the Renewable Energy
19 Standard Tier 3 program. Clean heat measures delivered or installed pursuant
20 to any local, State, or federal program or policy may count both towards goals

1 or requirements of such programs and policies and be eligible clean heat
2 measures that count towards the emission reduction obligations of this chapter.

3 (2) The owner or owners of a clean heat credit are not required to sell
4 the credit.

5 (3) Regardless of the programs or pathways contributing to clean heat
6 credits being earned, an individual credit may be counted only once towards
7 satisfying an obligated party’s emission reduction obligation.

8 (1) Credit registration.

9 (1) The Commission shall create an administrative system to register,
10 sell, transfer, and trade credits to obligated parties. The Commission may hire
11 a third-party consultant to evaluate, develop, implement, maintain, and support
12 a database or other means for tracking clean heat credits and compliance with
13 the annual requirements of obligated parties.

14 (2) The system shall require entities to submit the following information
15 to receive the credit: the location of the clean heat measure, ~~whether the~~
16 ~~customer or tenant has a low or moderate income~~ customer income amount, the
17 type of property where the clean heat measure was installed or sold, the type of
18 clean heat measure, and any other information as required by the Commission.
19 Customer income data collected shall be kept confidential by the Commission,
20 the Department of Public Service, the obligated parties and any entity that
21 delivers clean heat measures.

1 (m) Greenhouse Gas Emissions Inventory and Forecast. Nothing in this
2 chapter shall limit the authority of the Secretary of Natural Resources to
3 compile and publish the Vermont Greenhouse Gas Emissions Inventory and
4 Forecast in accordance with 10 V.S.A. § 582.

5 § 8128. CLEAN HEAT STANDARD TECHNICAL ADVISORY GROUP

6 (a) The Commission shall establish the Clean Heat Standard Technical
7 Advisory Group (TAG) to assist the Commission in the ongoing management
8 of the Clean Heat Standard. Its duties shall include:

9 (1) establishing and revising the lifecycle carbon dioxide equivalent
10 (CO₂e) emissions accounting methodology to be used to determine each
11 obligated party's annual requirement pursuant to subdivision 8124(a)(2) of this
12 chapter;

13 (2) establishing and revising the clean heat credit value for different
14 clean heat measures;

15 (3) periodically assessing and reporting to the Commission on the
16 sustainability of the production of clean heat measures by considering factors
17 including greenhouse gas emissions; carbon sequestration and storage; human
18 health; land use changes; ecological and biodiversity impacts; groundwater and
19 surface water impacts; air, water, and soil pollution; and impacts on food costs;

20 (4) setting the expected life length of clean heat measures for the
21 purpose of calculating credit amounts;

1 (5) establishing credit values for each year over a clean heat measure’s
2 expected life, including adjustments to account for increasing interactions
3 between clean heat measures over time so as to not double-count emission
4 reductions;

5 (6) facilitating the program’s coordination with other energy programs;

6 (7) calculating the impact of the cost of clean heat credits and the cost
7 savings associated with delivered clean heat measures on per-unit heating fuel
8 prices;

9 (8) coordinating with the Agency of Natural Resources to ensure that
10 greenhouse gas emissions reductions achieved in another sector through the
11 implementation of the Clean Heat Standard are not double-counted in the
12 Vermont Greenhouse Gas Emissions Inventory and Forecast;

13 (9) advising the Commission on the periodic assessment and revision
14 requirement established in subdivision 8124(a)(3) of this chapter; and

15 (10) any other matters referred to the TAG by the Commission.

16 (b) Members of the TAG shall be appointed by the Commission and shall
17 include the Department of Public Service, the Agency of Natural Resources,
18 and parties who have, or whose representatives have, expertise in one or more
19 of the following areas: technical and analytical expertise in measuring
20 lifecycle greenhouse gas emissions, energy modeling and data analysis, clean
21 heat measures and energy technologies, sustainability and non-greenhouse gas

1 emissions strategies designed to reduce and avoid impacts to the environment,
2 delivery of heating fuels, land use changes, deforestation, and climate change
3 mitigation policy and law. The Commission shall accept and review motions
4 to join the TAG from interested parties who have, or whose representatives
5 have, expertise in one or more of the areas listed in this subsection. Members
6 who are not otherwise compensated by their employer shall be entitled to per
7 diem compensation and reimbursement for expenses under 32 V.S.A. § 1010.

8 (c) The Commission shall hire a third-party consultant responsible for
9 developing clean heat measure characterizations and relevant assumptions,
10 including CO₂e lifecycle emissions analyses. The TAG shall provide input
11 and feedback on the consultant’s work. The Commission may use
12 appropriated funds to hire the consultant.

13 (d) Emission analyses and associated assumptions developed by the
14 consultant shall be reviewed and approved annually by the Commission. In
15 reviewing the consultant’s work, the Commission shall provide a public
16 comment period on the work. The Commission may approve or adjust the
17 consultant’s work as it deems necessary based on its review and the public
18 comments received.

19 ~~§ 8129. CLEAN HEAT STANDARD EQUITY ADVISORY GROUP~~

20 ~~(a) The Commission shall establish the Clean Heat Standard Equity~~
21 ~~Advisory Group to assist the Commission in developing and implementing the~~

1 Clean Heat Standard in a manner that ensures an equitable share of clean heat
2 measures are delivered to Vermonters with low income and moderate income
3 and that Vermonters with low income and moderate income who are not early
4 participants in clean heat measures are not negatively impacted in their ability
5 to afford heating fuel. Its duties shall include:

6 (1) providing feedback to the Commission on strategies for engaging
7 Vermonters with low income and moderate income in the public process for
8 developing the Clean Heat Standard program;

9 (2) supporting the Commission in assessing whether customers are
10 equitably served by clean heat measures and how to increase equity;

11 (3) identifying actions needed to provide customers with low income
12 and moderate income with better service and to mitigate the fuel price impacts
13 calculated in section 8128 of this title;

14 (4) recommending any additional programs, incentives, or funding
15 needed to support customers with low income and moderate income and
16 organizations that provide social services to Vermonters in affording heating
17 fuel and other heating expenses;

18 (5) providing feedback to the Commission on the impact of the Clean
19 Heat Standard on the experience of Vermonters with low income and moderate
20 income; and

1 ~~(6) providing information to the Commission on the challenges renters~~
2 ~~face in equitably accessing clean heat measures and recommendations to~~
3 ~~ensure that renters have equitable access to clean heat measures.~~

4 ~~(b) The Clean Heat Standard Equity Advisory Group shall consist of up to~~
5 ~~10 members appointed by the Commission and at a minimum shall include at~~
6 ~~least one representative from each of the following groups: the Department of~~
7 ~~Public Service; the Department for Children and Families' Office of Economic~~
8 ~~Opportunity; community action agencies; Efficiency Vermont; individuals~~
9 ~~with socioeconomically, racially, and geographically diverse backgrounds;~~
10 ~~renters; rental property owners; the Vermont Housing Finance Agency; and a~~
11 ~~member of the Vermont Fuel Dealers Association. Members who are not~~
12 ~~otherwise compensated by their employer shall be entitled to per diem~~
13 ~~compensation and reimbursement for expenses under 32 V.S.A. § 1010.~~

14 ~~§ 8129. SEVERABILITY~~

15 ~~If any provision of this chapter or its application to any person or~~
16 ~~circumstance is held invalid or in violation of the Constitution or laws of the~~
17 ~~United States or in violation of the Constitution or laws of Vermont, the~~
18 ~~invalidity or the violation shall not affect other provisions of this chapter that~~
19 ~~can be given effect without the invalid provision or application, and to this end,~~
20 ~~the provisions of this chapter are severable.~~

21 ~~§ 8130. RULEMAKING AUTHORITY~~

1 (a) No present or former officer, employee, or agent of the Department of
2 Taxes shall disclose any return or return information to any person who is not
3 an officer, employee, or agent of the Department of Taxes except in
4 accordance with the provisions of this section. A person who violates this
5 section shall be fined not more than \$1,000.00 or imprisoned for not more than
6 one year, or both; and if the offender is an officer or employee of this State, the
7 offender shall, in addition, be dismissed from office and be incapable of
8 holding any public office for a period of five years thereafter.

9 * * *

10 (d) The Commissioner shall disclose a return or return information:

11 * * *

12 (9) To the Public Utility Commission and the Department of Public
13 Service for purposes of providing information related to the fuel tax imposed
14 under 33 V.S.A. § 2503 necessary to administer the Clean Heat Standard
15 established in 30 V.S.A. chapter 94.

16 * * *

17 Sec. 6. PUBLIC UTILITY COMMISSION IMPLEMENTATION

18 (a) Commencement. On or before August 31, 2023, the Public Utility
19 Commission shall commence a proceeding to implement Sec. 3 (Clean Heat
20 Standard) of this act.

1 (b) Facilitator. The Commission shall hire a third-party consultant to
2 design and conduct public engagement. The Commission may use funds
3 appropriated under this act on hiring the consultant. Public engagement shall
4 be conducted by the facilitator for the purposes of:

5 (1) supporting the Commission in assessing whether customers will be
6 equitably served by clean heat measures and how to increase equity in the
7 delivery of clean heat measures;

8 (2) identifying actions needed to provide customers with low income
9 and moderate income with better service and to mitigate the fuel price impacts
10 calculated in 30 V.S.A. § 8128;

11 (3) recommending any additional programs, incentives, or funding
12 needed to support customers with low income and moderate income and
13 organizations that provide social services to Vermonters in affording heating
14 fuel and other heating expenses; and

15 (4) providing information to the Commission on the challenges renters
16 face in equitably accessing clean heat measures and recommendations to
17 ensure that renters have equitable access to clean heat measures.

18 (c) Public engagement process. Before commencing rulemaking, the
19 Commission shall use the forms of public engagement described in this
20 subsection to inform the design and implementation of the Clean Heat
21 Standard. Any failure by the Commission to meet the specific procedural

1 requirements of this section shall not affect the validity of the Commission’s
2 actions.

3 (1) The Commission shall allow any person to register at any time in the
4 Commission’s online case management system, ePUC, as a participant in the
5 Clean Heat Standard proceeding. ~~All members of the Equity Advisory Group~~
6 shall be made automatic participants to that proceeding. All registered
7 participants in the proceeding, including all members of the Equity Advisory
8 Group, shall receive all notices of public meetings and all notices of
9 opportunities to comment in that proceeding.

10 (2) The Commission shall hold at least six public hearings or workshops
11 that shall be recorded and publicly posted on the Commission’s website or on
12 ePUC. These meetings shall be open to everyone, including all stakeholders,
13 members of the public, and all other potentially affected parties, with
14 translation services available to those attending.

15 (3) The Commission also shall provide at least three opportunities for
16 the submission of written comments. Any person may submit written
17 comments to the Commission.

18 ~~(4) The Commission shall invite organizations and communities~~
19 ~~recommended by the Equity Advisory Group to participate in the~~
20 ~~Commission’s public meetings and opportunities to comment.~~

1 (d) Advertising. The Commission shall use funding appropriated in this act
2 on advertising the public meetings in order to provide notice to a wide variety
3 of segments of the public. All advertisements of public meetings shall include
4 a notice of language assistance services. The Commission shall arrange for
5 language assistance to be provided to members of the public as requested using
6 the services of professional language services companies.

7 (e) Draft proposed rules. The Commission shall publish draft proposed
8 rules publicly and provide notice of them through the Commission’s online
9 case management system, ePUC, to the stakeholders in this rulemaking who
10 registered their names and e-mail addresses with the Commission through
11 ePUC. The Commission shall provide a 30-day comment period on the draft
12 and accept written comments from the public and stakeholders. The
13 Commission shall consider changes in response to the public comments before
14 filing the proposed rules with the Secretary of State and the Legislative
15 Committee on Administrative Rules.

16 (f) Final rules.

17 (1) On or before January 15, 2025, the Commission shall submit to the
18 General Assembly final proposed rules to implement the Clean Heat Standard.
19 The Commission shall not file the final proposed rules with the Secretary of
20 State until specific authorization is enacted by the General Assembly to do so.

1 (2) Notwithstanding 3 V.S.A. §§ 820, 831, 836–840, and 841(a), upon
2 affirmative authorization enacted by the General Assembly authorizing the
3 adoption of rules implementing the Clean Heat Standard, the Commission shall
4 file, as the final proposed rule, the rules implementing the Clean Heat Standard
5 approved by the General Assembly with the Secretary of State and Legislative
6 Committee on Administrative Rules pursuant to 3 V.S.A. § 841. The filing
7 shall include everything that is required under 3 V.S.A. §§ 838(a)(1)–(5), (8)–
8 (13), (15), and (16) and 841(b)(1).

9 (3) The review, adoption, and effect of the rules implementing the Clean
10 Heat Standard shall be governed by 3 V.S.A. §§ 841(c); 842, exclusive of
11 subdivision (b)(4); 843; 845; and 846, exclusive of subdivision (a)(3).

12 (4) Once adopted and effective, any amendments to the rules
13 implementing the Clean Heat Standard shall be made in accordance with the
14 Administrative Procedure Act, 3 V.S.A. chapter 25 unless the adopted rules
15 allow for amendments through a different process in accordance with 30
16 V.S.A. § 8126(c) and (d).

17 (g) Consultant. The Commission may contract with a consultant to assist
18 with implementation of 30 V.S.A. § 8127 (clean heat credits).

19 (h) Funding. On or before February 15, 2024, the Commission shall report
20 to the General Assembly on suggested revenue streams that may be used or

1 created to fund the Commission’s administration of the Clean Heat Standard
2 program.

3 (i) Check-back reports. On or before February 15, 2024 and January 15,
4 2025, the Commission shall submit a written report to and be available to
5 provide oral testimony to the House Committee on Environment and Energy
6 and the Senate Committees on Finance and on Natural Resources and Energy
7 detailing the efforts undertaken to establish the Clean Heat Standard. The
8 reports shall include, to the extent available, estimates of the impact of the
9 Clean Heat Standard on customers, including impacts to customer rates and
10 fuel bills for participating and nonparticipating customers, net impacts on total
11 spending on energy for thermal sector end uses, fossil fuel reductions,
12 greenhouse gas emission reductions, and, if possible, impacts on economic
13 activity and employment. The modeled impacts shall estimate high-, medium-,
14 and low-price impacts. The reports shall recommend any legislative action
15 needed to address enforcement or other aspects of the Clean Heat Standard.

16 (j) Assistance. The Agency of Commerce and Community Development,
17 the Department of Public Service, and other State agencies and departments
18 shall assist the Commission with economic modeling for the required reports
19 and rulemaking process.

20 Sec. 7. PUBLIC UTILITY COMMISSION AND DEPARTMENT OF
21 PUBLIC SERVICE POSITIONS; APPROPRIATION

1 (a) The following new positions are created in the Public Utility

2 Commission for the purpose of carrying out this act:

3 (1) one permanent exempt Staff Attorney;

4 (2) one permanent exempt Analyst; and

5 (3) one limited-service exempt Analyst.

6 (b) The sum of \$825,000.00 is appropriated to the Public Utility

7 Commission from the General Fund in fiscal year 2024 for the positions

8 established in subsection (a) of this section; for all consultants required by this

9 act; and for additional operating costs required to implement the Clean Heat

10 Standard, including marketing and public outreach for Sec. 6 of this act.

11 (c) The following new positions are created in the Department of Public

12 Service for the purpose of carrying out this act:

13 (1) one permanent exempt Staff Attorney; and

14 (2) two permanent classified Program Analysts.

15 (d) The sum of \$900,000.00 is appropriated to the Department of Public

16 Service from the General Fund in fiscal year 2024 for the positions established

17 in subsection (c) of this section, to retain consultants that may be required to

18 support verification and evaluation required by 30 V.S.A. § 8127(a), for

19 conducting the potential study, and for associated operating costs related to the

20 implementation of the Clean Heat Standard.

21 Sec. 8. EFFECTIVE DATE

1 This act shall take effect on passage.

2

3

4

5 (Committee vote: _____)

6

7

Representative _____

8

FOR THE COMMITTEE